

December 10, 2004

VIA FACSIMILE  
(216) 443-6633

Michael Vu, Director  
Gwendolyn Dillingham, Deputy Director  
Cuyahoga County Board of Elections  
2925 Euclid Ave.  
Cleveland, OH 44115-2497

Re: Presidential Recount

Dear Director and Deputy Director:

Enclosed please find a copy of a letter personally signed by John Kerry appointing me as his legal counsel with respect to the recount for President and Vice President of the United States, with full authority to act on behalf of him and John Edwards, including appointing witnesses to attend the recount. Also enclosed is a letter personally signed by John Kerry designating witnesses to attend the recount in your county.

On behalf of John Kerry and John Edwards I am making the following requests regarding the conduct of the recount:

1. The selection of precincts for the three percent hand count should be according to a scientifically valid random sampling method. I am aware that you have received a letter from Votewatch regarding this issue with an offer by that organization to provide resources to ensure that the sampling method is valid. We urge you to accept this offer of assistance or otherwise be able to demonstrate that the method employed by the Board to select the precincts for the three percent hand count is scientifically valid.
2. We request that each candidate be given the opportunity to select at least one precinct for a hand count, either as part of or in addition to the three percent hand count.
3. For those counties that use touch screen voting systems, we request that the three percent hand count include a hand count of three percent of the ballot images stored in the each of the redundant memories of the machines selected for the recount and on any paper trail for the machines.

*-Practice Limited to-*

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4. We request that the Board provide the opportunity for candidates participating in the recount to have the programming and calibration of the tabulating system, scanners, and electronic voting machines verified by independent experts.
5. We request that the test used by the Board to verify the logic and accuracy of the computer tabulating program be performed for each precinct, including any separate absentee precinct. Further, the test should include testing for under and over voted ballots.
6. We request that computer printouts of the recount results include the under and over votes recorded in each precinct.
7. John Kerry and John Edwards hereby request to have their witnesses visually inspect all ballots for which your voting system has not recorded a vote for President and Vice President, i.e. the undervote and overvote ballots. If the Board does not agree to a visual inspection of these ballots, then we hereby request to visually inspect all ballots pursuant to R.C. § 3515.04 and OAG 74-103.
8. We request to inspect envelopes and related paperwork for all uncounted provisional and absentee ballots. This includes documents stating the reason or reasons that a ballot was not counted and the documentation to support the same.
9. In order to verify candidate rotation, we request to inspect the ballot page assemblies of all punch card voting devices and the ballot faces of all touch screen voting machines used at the polls or at the Board's office.
10. For those counties where the names of Nader and Camejo were visible to voters on the ballots, ballot pages or faces of voting machines, i.e. where the names were not covered over with a sticker or blacked out or the ballots were not reprinted without their names, we request to know whether any votes were cast for Nader and Camejo for President and Vice President.
11. We request that absentee ballots which were postmarked by election day, November 2, 2004, and were received by the board no later than November 12, 2004, be counted if the voter did not vote at the polls.

The above requests are in addition to any other requests that may be made by our witnesses.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,



Donald J. McTigue

cc: Daniel J. Hofheimer  
Kerry-Edwards State Counsel, Ohio